

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

MICHAEL TERRELL,

Plaintiff,

v.

CIVIL ACTION NO. 5:06-cv-00334

FAYETTE COUNTY SHERIFF'S
DEPARTMENT, et al.,

Defendants.

MEMORANDUM OPINION

Pending before the Court is Plaintiff's Application to Proceed Without Prepayment of Fees [Docket 2]. By Standing Order entered on July 21, 2004, and filed in this case on May 9, 2006, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R [Docket 10] on June 1, 2009, recommending that this Court deny Plaintiff's Application to Proceed Without Prepayment of Fees and dismiss this matter.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and Plaintiff's right to appeal this Court's Order. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort's PF&R were

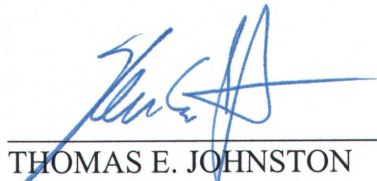
due by June 18, 2009, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [Docket 10] in its entirety and **DENIES** Plaintiff's Application to Proceed Without Prepayment of Fees [Docket 2]. A separate Judgment Order will enter this day implementing the rulings contained herein.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: July 8, 2009

A handwritten signature in blue ink, appearing to read 'Th. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE